International Conference on the Legal Aspects of an E-Commerce Transaction

26 | 27 October 2004 | The Hague, The Netherlands
Legal Aspects of an E-Commerce Transaction

During the Dutch Presidency of the Council of the European Union, the Hague Conference on Private International Law (HcCH), the Dutch Government and the International Chamber of Commerce (ICC) will jointly host a conference in The Hague on 26 and 27 October 2004 on the legal issues raised by electronic commerce. The conference will focus on the areas of private law and private international law, but other areas such as international tax law will also be addressed. The conference aims at raising general awareness, including political awareness, of the vast range of legal questions raised by e-commerce, and at providing a forum for dialogue between lawmakers and business. It will take stock of results achieved, assess whether the current legal framework reflects business realities and try to identify unresolved issues.

The conference will focus on the example of one particular on-line transaction, e.g. a purchase of goods or services. According to the 'life-cycle' of this transaction, the e-commerce conference is divided into four half-days, which will each focus on a different phase: the pre-contractual phase, the conclusion of the contract, its performance and the post-contractual phase. The major questions in each phase will be presented by a moderator, after which several panellists will outline the results achieved or work in progress within their organisation, country or area of activities. Speakers will be representatives of intergovernmental organisations, government, academia and the business world. The panel presentations will be followed by a discussion, involving both the panel and participants from the floor. Each session will be closed by the moderator summing up results achieved.

The conference will take place at the Academy Building on the grounds of the Peace Palace, Carnegieplein 2, 2517 KJ The Hague. Conference languages will be English and French with simultaneous interpretation. This programme is also posted on the website of the Hague Conference on Private International Law at <www.hcch.net>, together with a possibility for on-line registration.

The conference is open to the public; a registration fee of 100 Euros per person will be charged. Registration is only possible through our website at www.hcch.net accompanied by on-line payment.
### DAY 1 | TUESDAY 26 OCTOBER 2004

**10.00**
Opening remarks: Hans van Loon, Secretary General of the Hague Conference on Private International Law
Kees van der Waaij, Chairman of ICC Nederland and of Unilever Nederland

**10.30**
**The Pre-Contractual Phase**
*Advertising, Competition, Infringement of Intellectual Property Rights*
Introduction and moderation: Paul Torremans, Professor of Law, University of Gent, Belgium, and University of Nottingham, United Kingdom
- Oliver Gray, Secretary General of EASA (European Advertising Standard Alliance) and Co-chair of ICC Task Force on Code Revision, Belgium
- Self-regulatory principles on marketing and advertising, which use the Internet, online services, electronic networks and the telephone. What are the legal pitfalls for companies engaged in online marketing?
- ICC Guidelines on Marketing and Advertising using Electronic Media
- Erich Wiegand, Vice-Chair ESOMAR (World Association of Opinion and Marketing Research Professionals) Professional Standards Committee, Amsterdam, Netherlands
- Market research activities in an online context. The difference between marketing and market research – which self-regulatory rules are in place, and how are they enforced?
- ICC/ESOMAR International Code of Marketing and Social Research Practice

**11.15**
Coffee break

**11.30**
- Mario Tenreiro, Head of Unit, JA1, European Commission
- The law applicable to non-contractual relationships in an online context (Rome II – in particular unfair competition, tort and IP infringement)
- Impact of the proposed Rome II Regulation on e-commerce
- Lucinda Jones, Senior Legal Officer, World Intellectual Property Organization (WIPO)
- WIPO update on intellectual property issues in the digital agenda
Jane Ginsburg, Professor of Law, Columbia University, New York, USA
- Copyright on the Internet
- Example of national legislation – Digital Millenium Copyright Act
- How does the relationship between national and international legislation influence e-commerce?

Yuko Nishitani, Associate Professor of Law, Tohoku University, Japan
- Questions relating to copyright infringement on the Internet
- The Japanese approach from a comparative perspective

Lunch break

14.30
THE CONTRACTUAL PHASE
Negotiation and Conclusion of the Contract: Formal and Substantive
Validity, Choice of Court and Choice of Law Clauses
Introduction and moderation: Stefan Leible, Professor of Law,
Friedrich-Schiller-Universität Jena, Germany
- José Angelo Estrella Faria, Legal Officer, UNCTRAL
  How should the legal validity of electronic messages be assessed:
  - UNCTRAL Model Law on Electronic Signatures 2001
  - Work in Progress: Project of a Draft UN Convention on Electronic Contracting
- Ake Nilson, Chairman, Allagraf Ltd, United Kingdom
  What are the legal implications of moving contracting safely from a paper-based environment to an electronic environment?
  - Pactio, the online sales contract application
  - ICC Model Contracts
- Michael Hellner, Special Adviser, Ministry of Justice, and Associate Professor in Private International Law, Uppsala University, Sweden
  The EC Directive on electronic commerce and private international law

Coffee break
16.15-18.00

- **Simone van der Hof, Assistant Professor, Tilburg University, The Netherlands**
  International online B2B contracts in Europe and the US – a Private International Law Perspective with a focus on the validity of choice of court and choice of law clauses
- **John Rothchild, Associate Professor of Law, Wayne State University Law School, Detroit, Michigan, USA**
  - US jurisdiction over e-commerce transactions: Recent case-law
  - UCITIA (Uniform Computer Information Transactions Act) - legislation on software transactions
- **Evangelos Apostolou, Senior Counsel, Global Services, British Telecom Plc, United Kingdom**
  B2B Online Contracting – The Legal challenges facing business

19.00

Reception offered by the Mayor of The Hague, Mr. Wim Deetman, at the Town Hall
### DAY 2 | WEDNESDAY 27 OCTOBER 2004

#### Panel A: Shipping of Goods, Delivery of Service, Online Performance

**Introduction and moderation:** Mads Bryde Andersen, Professor of Law, University of Copenhagen, Denmark
- James Bryce Clark, Manager of Technical Standards Development, OASIS, USA
  Will widespread adoption of uniform rules and principles governing contractual relationships facilitate e-commerce?
- **UNIDROIT** Principles of International Commercial Contracts 2004
- José Angelo Estrella Faria, Legal Officer, UNCTAR
  CISG and e-commerce
- Jan Ramberg, Professor emeritus, Stockholm University, Sweden
  ICC’s Incoterms has been a codified business standard since 1936
  How have the technological changes influenced Incoterms, and is Incoterms 2000 geared for use in an electronic trading environment?

#### Coffee break

#### Panel B: Electronic Payment and Taxes

- **Marc Lacoursière**, Assistant Professor, Université Laval, Québec, Canada
  Legal aspects of electronic payments
- **Anna Nordén**, General Counsel, Tekki AB, Stockholm, Sweden
  Electronic invoicing in the light of the EU VAT Directive 2001/115/EC
- **William Craig**, School of Law, Aberdeen, United Kingdom
  E-commerce and international taxation

#### Lunch break

#### Panel C: Service Agreements, Guarantee Periods, Handling of Personal Data, Confidentiality, Spam, Product and Service Liability

**Introduction and moderation:** Michael Geist, Professor of Law, University of Ottawa, Canada
### 16.30-17.00

**Closing remarks by Laurens Jan Brinkhorst,**

**Minister of Economic Affairs of The Netherlands**

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**More information**

The Hague by train: Trains stop at either Den Haag Centraal or Den Haag Hollands Spoor, and the Peace Palace is within easy reach of both stations by public transport or taxi.

The Hague by plane: Flight to Amsterdam Schiphol Airport (30-minute train journey to The Hague), or flight to Rotterdam Airport (30 minutes by taxi to the Peace Palace in The Hague).

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For updates of the programme, please consult www hcch.net